REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-2, 5-6, 8-14 and 17-23 are rejected under 35 U.S.C. 103 over U.S. patent to Weigelt in view of the U.S. patent to Bischoff.

The claims are also rejected under 35 U.S.C. 101.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicants amended claim 1, the broadest claim on file, so as to more clearly define the present invention and to distinguish it from the prior art.

In particular, claim 1 has been amended by introducing into it substantially the features of claim 17, and also by adding that the optimized adjustable parameters are obtained and used either for indication to an operator or for direct adjustment of the machine or, naturally, its working units.

The steps of obtaining the optimized adjustable parameters and using them for indication to an operator or for adjustment of the machine clearly define tangible results of the inventive method. It is therefore believed that the Examiner's rejection of the claims under 35 U.S.C. 101 should be considered as no longer tenable and should be withdrawn.

The additional features introduced into claim 1 clearly and patentably distinguish the present invention from the prior art applied by the Examiner, in particular from the U.S. patent to Weigelt.

U.S. patent to Weigelt indisputably discloses a method for optimizing adjustable parameters by means of using machine-internal and machine-external signals or information and to exchange these informations between a central controlling processor 1 and different machines. For saving storage capacity and for increasing data transfer speed, the patent to Weigelt discloses cooperation procedures between the stationary central processors 1 and movable on-board processors 8 to generate jointly optimized machine parameters. The patent to Weigelt however does not disclose any situation patterns which could be recognized and could be pre-selected for increasing the optimization process, as performed in the method of the present invention and now defined in amended claim 1.

The patent to Bischoff is limited to a single combine and the parameter optimization process of it, while no data transfer between a group of combines and a central processing unit is disclosed in this reference.

On page 5 of the Office Action the Examiner indicated that in column 6, lines 49-65 the patent to Bischoff disclosed the definition and recognition of situation patterns. "Situation patterns" means a description of current working conditions of a combine (an agricultural machine), "encoded" in machine-internal and

machine-external parameters. The cited part of the patent to Bischoff however does not disclose any pattern-referred subjects.

As can be clearly seen from these references, neither Weigelt nor Bischoff want to generate optimized machine parameters by recognizing and pre-selecting situation patterns.

It is therefore believed to be clear that the new features of the present invention which are now defined in amended claim 1 are not disclosed in the references applied by the Examiner against the original claims.

It is also believed to be clear that these features provide for advantageous optimization of the adjustable parameters of machines, which can not be achieved by the solutions proposed in the references.

The original claims were rejected over the patents to Weigelt and Bischoff as being obvious under 35 U.S.C. 103(a). The references do not teach the new features of the present invention as now defined in the amended claim 1, and they do not contain any hint or suggestion for such features. In order to arrive at the applicant's invention it would not be sufficient to combine the references, but instead, the references have to fundamentally modified by including into them the new features of the present invention which were first proposed by applicants and are now defined in amended claim 1.

However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification. This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

> Prior patents are references only for what they clearly disclose or suggest, it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Also, as explained herein above, the present invention provides for the highly advantageous results which are not accomplished in the prior art. In connection with this it should be mentioned that as was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38):

> Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claim 1, the broadest claim on file, should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on claim 1, they share its allowable features, and therefore they should be allowed as well.

Reconsideration and allowance of the present application with all the claims currently on file is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance; he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,

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